In the High Court of Punjab and Haryana, Chandigarh

C.W.P. No. 14350 of 2006

Date of Decision: September 21, 2006

Kewal Chand

…Petitioner

Versus

Union of India and others

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE M.M.S. BEDI

PRESENT: Mr. Raman Sharma, Advocate,
for the petitioner.

JUDGMENT

M.M. KUMAR, J.

The prayer made in this petition filed under Article 226 of the Constitution is that the inquiry report dated 16.10.2001 (P-6) recording findings against the petitioner be quashed along with subsequent orders based on the aforementioned report, dated 29.12.2001 (P-8), passed by the Punishing Authority, namely, the Commandant 96 Battalion, C.R.P.F., dismissing the petitioner from service be also quashed. Likewise, the appellate order dated 28.8.2002 (P-10) and the order passed on the revision petition filed by the petitioner, dated 4.11.2004 (P-12) have also been challenged. The petitioner has been working as a Sepoy and he was placed under

suspension on 27.5.2001. Thereafter, departmental inquiry was conducted against the petitioner. As per charge No. 1 in Appendix-1, it was found that the petitioner had violated the instructions and rules of the Central Reserve Police Force as he was found lying unconscious on 24.5.2001 at about 11.45 p.m. on the platform of Railway Station, Barauni, on account of heavy quantity of consumption of liquor and simultaneously on account of carelessness had thrown his personal arm (SLR) at a distance of 4-5 steps away. He was picked up by Sub Inspector Autar Singh and the petitioner has abused him. The second charge is also similar and the same has been found proved. The Punishing Authority while accepting the inquiry report has dismissed the petitioner from service vide order dated 29.12.2001 (P-8). It has recorded the finding that the charges were fully proved, especially when the petitioner has admitted his guilt. Paras 5, 6 and 7 of the aforementioned order, which makes the aforementioned factual position evident, reads as under:-

> "5. After going through the Departmental Enquiry proceedings, statements of the witnesses, report of the Enquiry Officer and other relevant documents, I have come to the conclusion that charges levelled against No. 900997195 CT/GD Kewal Chand A/96 Battalien are fully proved without any doubt. The charges in Appendix one at item No. 1, which is a serious crime in disciplined force and simultaneously I agree with the report of the

Enquiry Officer. During hearing of the Enquiry, the accused has admitted his fault. This Workman is habitual of consuming wine and under the influence of liquor, he cannot control his deeds. As the Workers of CRPF have always keep arms and in the area like Assam, he has always to fight with terrorists, therefore every one is required to be alert. Keeping this facts, this Worker is found unfit for service of CRPF. So, in exercise of the powers delegated under section 11(a) of the Central Reserve Police Force Act, 1949 read with Rule 27 of the Central Reserve Police Force Rules, 1955, with a view to keep discipline of the Force maintained, while issuing final order on the basis of this departmental enquiry, I order to dismiss No. 900997195 CT/GD Kewal Chand with immediate effect. Period of suspension and the period of permission to leave H.Qrs of the Worker will be separately regularised.

6. No. 900997195 CT/GD Kewal Chand, is removed from service of this Unit, with immediate effect.

7. All the Medals (Padaks) etc. of No. 900997195 CT/GD Kewal Chand A/96 Battalien CRPF, which may have been issued to him during the course of his service or are to be issued, the same are

> forfeited under Section 12(1) of the Central Reserve Police Force Act, 1949. If, there is any amount due against him or any in Govt amount is due to him, the same will be adjusted out of the amount to be paid to him. Identity card issued to him is cancelled."

The appeal filed by the petitioner against the order dated 29.12.2001 was dismissed by the Deputy Inspector General of Police, CRPF, Jalandhar, by passing a detailed order on 28.8.2002 (P-10) and the order of dismissal passed by the Punishing Authority has been upheld. However, the Revisional Authority, namely, Inspector General of Police/Additional Director General entertained the revision under Rule 29 of the Central Reserve Police Force Rules, 1955 and dismissed the revision petition vide order dated 4.11.2004 (P-12). However, the punishment of dismissal has been modified to that of removal.

We have heard learned counsel for the petitioner at some length and we find that there is no plausible reason to admit this petition. It is evident that the petitioner is a member of disciplined force. At the relevant time he was posted somewhere in Assam which is a sensitive area. The misconduct of heavy consumption of liquor, especially losing control of his senses is of grave nature. The personal arm of the petitioner was found lying at a distance which could have been easily picked up by any miscreants. The punishment of removal from service is in no way excessive or disproportionate.

Learned counsel for the petitioner has not been able to point out any procedural lapse in holding the departmental inquiry which may warrant interference of this Court. The findings are based on evidence and Rule 20 of the Central Civil Services (Conduct) Rules, 1964, has been found to be violated, therefore, the inquiry report Annexure P-6 and the orders of punishment passed by the respondents leading to the passing of order dated 4.11.2004 (P-12) converting the punishment of dismissal into removal are un-assailable.

For the aforementioned reasons, the writ petition is wholly misconceived and the same is accordingly dismissed.

(M.M. KUMAR)
JUDGE

(M.M.S. BEDI)
JUDGE

September 21, 2006
Pkapoor